

APR 24 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

LEONARD S. BROWN,

Plaintiff - Appellant,

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY; STATE FARM
INSURANCE COMPANY,

Defendants - Appellees.

No. 02-15194

D.C. No.
CV-00-02001-WBS/JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Argued and Submitted April 7, 2003
San Francisco, California

Before: BROWNING, McKEOWN, and RAWLINSON, Circuit Judges.

Appellant Leonard S. Brown ("Brown") contends that State Farm Mutual
Automobile Insurance Company and State Farm Insurance Company (collectively

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

“State Farm”) breached both the insurance contract and the implied covenant of good faith and fair dealing by delaying the payment of underinsured motorist insurance benefits.

Because Brown recovered all the benefits due to him under his policy, State Farm did not breach its contract with Brown for insurance coverage. *See Quintano v. Mercury Cas. Co.*, 11 Cal. 4th 1049, 1056 (1995).

State Farm did not breach the covenant of good faith and fair dealing. Unresolved liability issues concerning State Farm’s other insured driver made it reasonable for State Farm to proceed to trial for a determination of its exposure. Questions of coverage negate a bad faith claim as a matter of law. *See Guebara v. Allstate Ins. Co.*, 237 F.3d 987, 992 (9th Cir. 2001).

AFFIRMED.